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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/713,962	11/15/2000	Alain T. Rappaport N	IS320512.02/MSFTP1835USA 5197	
	7590 05/15/200 CY & CALVIN, LLP	8	EXAMINER FRENEL, VANEL	
24TH FLOOR,	NATIONAL CITY CH	ENTER		
1900 EAST NINTH STREET CLEVELAND, OH 44114			ART UNIT	PAPER NUMBER
			3687	
			NOTIFICATION DATE	DELIVERY MODE
			05/15/2008	ELECTRONIC

## Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docket1@thepatentattorneys.com hholmes@thepatentattorneys.com lpasterchek@thepatentattorneys.com

## Advisory Action Before the Filing of an Appeal Brief

Application No.	Applicant(s)		
09/713,962	RAPPAPORT ET AL.		
Examiner	Art Unit		
VANEL FRENEL	3687		

<ul> <li>1. ■ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant time timely file one of the following replies: (1) an amendment, afficiant, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:</li> <li>a) The period for reply express months from the mailing date of the final rejection.</li> <li>b) Mental of the period for reply express months from the mailing date of the final rejection.</li> <li>b) Mental of the period for reply express or (1) the mailing date of the sAdvisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expret alair than 31% MONTHS from the mailing date of the final rejection.</li> <li>b) Mental of the period for reply express or (1) the mailing date of the sAdvisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expreta and the same state of the statutory period for the same state of the same state o</li></ul>		
1. ☑ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandomment of this application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31: or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.14. The reply must be filed within one of the following prior and the period for reply expires on: (1) the mailing date of the final rejection.  b) ☑ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no evert, however, will the statutory period for reply expires on: (1) the mailing date of the final rejection.  Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS for The FIRAL REJECTION. See MFEP 70.67(7).  Extensions of time may be obtained under 37 CFR 1.198(a). The date on which the petition under 37 CFR 1.198(a) and the appropriate extension fee number 57 CFR 1.178(a) is calculated from: (1) the expiration date of the shortened structory period for reply originally set in the final Office action; (c) as any revolue any exame patent term adjustment. See 37 CFR 1.79(b).  NOTICE OF APPEAL 2.  □ The Notice of Appeal was filed on A brief in compliance with 37 CFR 4.137 must be filed within two months of the date of filing the Notice of Appeal was fleed on A brief in compliance with 37 CFR 4.137(e)), to avoid dismissal of the appeal. Since a Notice of Appeal was been filed, any reply must be filed within the time period set forth in 37 CFR 4.137(a).  AMENDMENTS  □ The Notice of Appeal was been filed and the final rejection, but prior to the date of filing a brief, will not be entered because (a) ☐ They raise the issue of new matter (see NOTE below);  (b) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  (b) ☐ They raise new issues that would requi	The MAILING DATE of this communication appears on the cover sheet with the correspondence address	5
application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 1.144. The reply must be filed within one of the following time periods:  a) The period for reply expiresmonths from the mailing date of the final rejection.  b) The period for reply expiresmonths from the mailing date of the final rejection.  Examiner Note: (Ib ox 1 is checked, check dien box (a) or (2) both 21 to period for reply expire later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  Examiner Note: (Ib ox 1 is checked, check dien box (a) or (b), ONLY-CHECK BOX (a) WHEN THE FIRST REPLY MSF ILED WITHIN TWO MONTHS OF THE FIRAL REJECTION. See MPEP 706.07(f).  Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee nave been filed is the date for purposes of determining the pend of extension and the corresponding amount of the fee. The appropriate extension fee nave been filed is the date for purposes of determining the pend of extension and the corresponding amount of the fee. The appropriate extension fee nave been filed is the date for purposes of determining the pend of extension and the corresponding amount of the fee. The appropriate extension fee nave been filed is the date for purposes of determining the pend of extension and the corresponding amount of the fee. The appropriate extension fee nave been filed is the date for file and the pend of the filed of the filed feel of the filed of the file	THE REPLY FILED <u>01 May 2008</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.	
a) ☐ The period for reply expiresmonths from the mailing date of the final rejection. b) ☐ The period for reply expires on: (1) the mailing date of the Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  Examiner Note: If box 1 is checked, check cilibro to; (a) or (b), ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See NRFEP 706.07(f).  Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee have been filed in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, over if timely filed, may reduce any amend patent term adjustment. See 37 CFR 1.704(b).  NOTICE OF APPEAL.  2. ☐ The Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal was filed on, A brief in compliance with 57 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal was filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) they raise new issues that would require further consideration and/or search (see NOTE below);  (b) they raise new issues that would require further consideration and/or search (see NOTE below);  (c) they raise here issues that would require further consideration and/or search (see NOTE below);  (d) they are not determed to place the application in bette	application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following	n places the a Request
<ul> <li>2. ☐ The Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37 (a)), to avoid dismissal of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(a)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).</li> <li>3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);</li> <li>(b) ☐ They raise the issue of new matter (see NOTE below);</li> <li>(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or</li> <li>(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.</li> <li>NOTE:</li></ul>	a) The period for reply expiresmonths from the mailing date of the final rejection.  The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whicheve no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).  Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate ex have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate eunder 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office act set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if may reduce any earned patent term adjustment. See 37 CFR 1.704(b).	WITHIN TWO tension fee extension fee stion; or (2) as
filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).  AMENDMENTS  3. The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) They raise new issues that would require further consideration and/or search (see NOTE below); (b) They raise the issue of new matter (see NOTE below); (c) They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  (d) They present additional claims without canceling a corresponding number of finally rejected claims.  NOTE: (See 37 CFR 1.116 and 41.33(a)).  4. The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  5. Applicant's reply has overcome the following rejection(s):		
3.	filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the ap Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).	
appeal; and/or  (d)  They present additional claims without canceling a corresponding number of finally rejected claims.  NOTE:	3. The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered becau (a) They raise new issues that would require further consideration and/or search (see NOTE below);  (b) They raise the issue of new matter (see NOTE below);	
5.  Applicant's reply has overcome the following rejection(s):  5.  Newly proposed or amended claim(s) would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  7.  For purposes of appeal, the proposed amendment(s): a)  will not be entered, or b)  will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  The status of the claim(s) is (or will be) as follows:     Claim(s) allowed:	appeal; and/or (d) They present additional claims without canceling a corresponding number of finally rejected claims.  NOTE: (See 37 CFR 1.116 and 41.33(a)).	
Newly proposed or amended claim(s) would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  Newly proposes of appeal, the proposed amendment(s): a)	4. 🔲 The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTC	)L-324).
non-allowable claim(s).  For purposes of appeal, the proposed amendment(s): a)   will not be entered, or b)   will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  The status of the claim(s) is (or will be) as follows:  Claim(s) allowed: None.  Claim(s) objected to: None.  Claim(s) objected to: None.  Claim(s) withdrawn from consideration: None.  AFFIDAVIT OR OTHER EVIDENCE  B.   The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  D.   The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.  REQUEST FOR RECONSIDERATION/OTHER  11.   The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  See Continuation Sheet.  12.   Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s)	5. Applicant's reply has overcome the following rejection(s):	
how the new or amended claims would be rejected is provided below or appended.  The status of the claim(s) is (or will be) as follows: Claim(s) allowed: None. Claim(s) objected to: None. Claim(s) rejected: 1-23. Claim(s) withdrawn from consideration: None.  AFFIDAVIT OR OTHER EVIDENCE  B. The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  D. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  D. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.  REQUEST FOR RECONSIDERATION/OTHER  The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  See Continuation Sheet.  Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s)	non-allowable claim(s).	_
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because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  9. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.  REQUEST FOR RECONSIDERATION/OTHER  11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  See Continuation Sheet.  12. Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s)  13. Other:		
entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.  REQUEST FOR RECONSIDERATION/OTHER  11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  See Continuation Sheet.  12. Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s).  Other:	because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is nec was not earlier presented. See 37 CFR 1.116(e).	essary and
REQUEST FOR RECONSIDERATION/OTHER  11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  See Continuation Sheet.  12. Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s).  Other:  /Vanel Frenel/	entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to	
<ul> <li>11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.</li> <li>12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s)</li> <li>13. ☐ Other:</li> <li>/Vanel Frenel/</li> </ul>	10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached. REQUEST FOR RECONSIDERATION/OTHER	
13. ☐ Other: /Vanel Frenel/	11. 🛮 The request for reconsideration has been considered but does NOT place the application in condition for allowance b	ecause:
	12. ☐ Note the attached Information <i>Disclosure Statement</i> (s). (PTO/SB/08) Paper No(s) 13. ☐ Other:	
	/Vanel Frenel/	

Continuation of 7: Applicant's arguments filed on 5/01/08 with respect to claims 1-23 have been considered but they are not persuasive. Applicant's is advised to look at the previous Final Office Action mailed on 3/03/08.